IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 1238 (MS) of 2004

Subhash Chandra,
S/o Sri Narayan Singh,
R/o Bapu Gram Rishikesh,
District-Dehradun. .....Petitioner.

Versus

1. Civil Judge (Junior Division), Rishikesh, District-Dehradun.
2. Satish Kumar, S/o Sri Mangal Singh,
R/o I.D.P.L. Opposite City Gate, Geetanagar, Haridwar Marg, Rishikesh, District-Dehradun.

.....Respondents.

Dated: 24.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Pramod Bailwal and Sri Sharad Sharma, Advocate for the petitioner and Sri J.P. Joshi, Advocate for the for the respondent no. 2.

2. By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the judgment and decree dated 06.11.2004 passed by the Court of Civil Judge (J.D.), Rishikesh, District-Dehradun in Original Suit No. 37 of 2000 Satish Kumar Vs. Subhash Chandra i.e. (Annexure No. 3 to the writ petition) under Section 6 of the Specific Relief Act.

3. Sub-section (3) of Section 6 of the Specific Relief Act reads as under:-

"(3) No appeal shall lie form any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed."

3. Admittedly no appeal lies, but revision lies under Section 115 of the Code of Civil Procedure. The same reads as under:-

"115. Revision.-[(1)] The high Court may clal for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears"

4. Since the appeal is not maintainable, revision will lie before the District Judge against the order dated 6th November, 2004.

5. Subject to the aforesaid observations, writ petition is dismissed on the ground of alternative remedy. No order as to costs.

6. Certified copy of the impugned order shall be returned to the petitioner for filing the revision before the District Judge.

(Rajesh Tandon, J.)

24.08.2006
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